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PATENT

REMARKS

Applicants have thoroughly considered the Examiner's remarks and the application has been amended in light thereof. Claims 1-48 are presented in the application for further examination. Claims 1, 15, 23, 30 and 40 have been amended by this Amendment D. Reconsideration of the application claims as amended and in view of the following remarks is respectfully requested. The following remarks will follow the sequence of the Office action.

Claims 1-48 stand rejected under 35 U.S.C. §103(a) as being unpatentable as obvious over Gossett Dalton, Jr. et al. (U.S. Patent 6,426,955 B1) in view of Mistry (U.S. Patent No. 6,426,950 B1). The Examiner argues that Gossett Dalton, Jr. et al. disclose at col. 3, lines 57 to col. 4, line 21 an internet telephony call routing engine including POP telephony servers coupled to a telephone network and coupled to a web server via a data network. The Examiner further argues that one skilled in the art would use a user computer having a data connection to a web server as taught by Mistry in Gossett Dalton, Jr. et al.

Applicants respectfully disagree with the Examiner for three reasons. First, as previously indicated, applicants continue to disagree with the Examiner's interpretation of the Gossett Dalton, Jr. et al. reference. Applicants submit that Gossett Dalton, Jr. et al. teach nothing more than a system for connecting two phones via the internet. Second, the references cannot be combined as suggested by the Examiner. In particular, applicants submit that the Examiner is using hindsight analysis to combine Mistry with Gossett Dalton, Jr. et al. in order to suggest the system and method of the invention and recited by the claims relating to web initiated telephony including integrated telephone and data networks. Third, the web initiated telephony system and method of the invention as recited by the amended claims differs from the combined references. In particular, the invention relates to web initiated telephony initiated by a user computer having a data connection between the user computer and the web server wherein the user computer provides a data command to the web server for initiating a telephonic connection between a plurality of telephone devices via the telephone and data networks. These points will be addressed below. ✓

As to the first point, applicants disagree with the Examiner's interpretation of the Gossett Dalton, Jr. et al. reference. Column 1, lines 66-67 and column 2, lines 1-2 indicate that the system of Gossett Dalton, Jr. et al. relates to a call routing engine connected to an IP network

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that provides a gateway in the routing and billing of voice over IP transactions. Further, as illustrated in Fig. 1, the calling party 104 initiates a call through a source gateway 105, which is a telephone network. Thus, Gossett Dalton, Jr. et al. contemplate internet based telephony and the computers involved in this system are used to route calls and keep track of financial information within the internet. As illustrated in Fig. 1, Gossett Dalton, Jr. et al. do not show any computers other than routing and tracking computers.

As to the second point, the system and method of the invention and recited by the claims relates to web initiated telephony including integrated telephone and data networks and is not taught by the combination of Gossett Dalton, Jr. et al. and Mistry. In particular, each of the independent claims recites at least a telephone network and a data network in combination. In contrast, Gossett Dalton, Jr. et al. relate to an internet based system and Mistry illustrates a system in which the telephone and data networks are separate and distinct and apparently independent of each other. Neither reference suggests integrating the telephone and data networks as recited by the claims. Thus, the only suggestion for combining the references is the claims, which is improper hindsight analysis.

As to the third point, claim 1 recites that the web server is "initiated via the data connection between the user computer and the web server by a user controlling said user computer whereby the data command results in the telephonic connection between the first and second telephone devices via both the telephone network and the data network." Similarly, claim 15 recites that the web server is "initiated by the user computing device via the data network between the user computing device and the web server to issue data commands to said first and second telephony servers to call the first and second telephone devices, respectively, and to establish voice communication between them via the first and second telephony networks and via the data network." Claim 23 recites that "upon receipt of said data command indicating said selection from said user computing device, said web server commands said first and second telephony servers to call the first and second telephone devices, respectively, and to establish voice communication between them via the first and second telephone networks and via the data network." Claim 30 recites "a user communication initiation device, coupled to the web server via the data network, for providing a data command associated with the two or more telephony devices to said web server and for initiating the web server via the data network to establish the

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voice communication between the two or more telephony devices via the telephone network and via the data network." Also, method claim 40 recites that "voice communication between the two telephony devices via at least one of the telephone networks and via the data network is established by the web server in response to said web server being initiated."

These recitals of the invention relating to telephone devices connected via telephone and data networks are included in each of the independent claims and thus in each of the claims. These recitals are simply not taught or disclosed by either the Gossett Dalton, Jr. et al. reference or the Mistry reference, either separately or in combination. As noted previously, Gossett Dalton, Jr. et al. contemplates only voice over IP transactions. Contrary to the Examiner's conclusion, Mistry does not disclose or suggest that the telephone devices are connected via telephone and data networks. Mistry teaches a connection between two telephones via a telephone network (see Fig. 1 in which all telephone devices are connected to the PSTN). The Examiner points to Fig. 2 of Mistry and col. 6, lines 51-65. However, this limited discussion of Mistry refers to U.S. Patent 6,337,858 B1, a copy of which the Examiner cited and listed on the Notice of Reference Cited (PTO-872) enclosed with the Office action. The '878 patent more clearly provides an understanding of Fig. 2 of Mistry. Further, the '878 patent makes it clear that it relates to a "method and apparatus for providing voice communications between two parties using computer controlled telephony hardware which is *separate from* the PSTN" (emphasis added; see abstract of '878 patent, lines 1-3). Thus, as noted above, Mistry does not disclose or suggest that the telephone devices are connected via both the telephone and data networks, as recited by the claims.

Additionally, the dependent claims further recite features which distinguish over the prior art.

In summary, it is submitted that claims 1-48 are patentable over Gossett Dalton, Jr. et al. in view of Mistry because these references fail to teach or suggest a system or method in which telephone devices are connected via telephone and data networks.

It is felt that a full and complete response has been made to the Office action and, as such, places the application in condition for allowance. Such allowance is hereby respectfully requested. If the Examiner feels, for any reason, that a personal interview will expedite the prosecution of this application, he is invited to telephone the undersigned.

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Applicants do not believe that a fee is due. If, however, the Commissioner determines otherwise, such fees may be charged to Deposit Account No. 19-1345.

Respectfully submitted,



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